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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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09/118,725 07/17/98 AYCOCK

M USP8486A-EZ

EXAMINER

PM31/1223

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CRANMER, L	PAPER NUMBER
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3624

DATE MAILED: 12/23/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7/17/98

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-20 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the lower supporting grooves 424, 434, 444 in Fig. 5. The grooves in Fig. 5 extend to one side only of the pivot axis of connector means 441; however, in Fig. 6, the grooves extend to either side of the connector means as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

Claim Rejections - 35 USC § 112

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-4 "said two" at every recitation should be changed to --said at least two--.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-12 so far as definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles in view of Wakimoto (711).

Wiles teaches a cross-member D adapted to connect at least two elongated stems of furniture including oppositely inclined holes and a vertical connecting hole such that the elongated stems can be folded such that they are parallel to each other and unfolded to support the furniture substantially as claimed except for the stems being pivotally attached to the cross member.

The patent to Wakimoto teaches elongated members pivotally attached to a cross member to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the Wiles device such that the elongated stems were pivotally attached to the cross member as taught to be old by Wakimoto thereby providing the obvious advantage of a more stable furniture piece.

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To use a bolt and nut as a pivot is considered to be an obvious choice which would have been obvious to one of ordinary skill in the art and appears to be the pivot means used in Wakimoto, although it is not explicitly recited as such.

6. Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiles in view of Wakimoto (711) as applied to claims 1-12 above, and further in view of Goddard. Goddard teaches a cross-member supporter for supporting a three legged tripod shaped cross construction to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the Wiles device such that it were for use with a three-legged furniture construction as taught to be old by Goddard.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wakimoto (015), Heyndricx (306), Stewart (665), Birindelli (617) and Rossi (061) all teach devices similar to that of the instant invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie K. Cranmer whose telephone number is (703) 308-2168.

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October 6, 1998


Laurie K. Cranmer
Primary Examiner